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# HOUSE BILL No. 1985

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 15-3-3.7; IC 15-3-3.8.

**Synopsis:** Pesticide application notification. Requires the state chemist to establish a pesticide notification registry. Specifies that the registry must contain the names, residential addresses, and other contact information provided by persons who register with the state chemist because their health requires advance notification of pesticide and fertilizer applications that will occur within close proximity of the persons' residences. Requires pesticide and fertilizer applicators to provide notice to certain persons on the registry before applying a pesticide or fertilizer. Requires certain persons that own or occupy land on which a pesticide will be applied to post signs that contain information concerning the application. Requires schools and day care facilities that own or occupy land on which a pesticide will be applied to provide information concerning the application to parents or guardians of children that attend or use the schools and day care facilities. Requires a unit of state or local government to notify the news media before a pesticide application occurs.

**Effective:** Upon passage; July 1, 2003; January 1, 2004.

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January 23, 2003, read first time and referred to Committee on Environmental Affairs.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1985

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 15-3-3.7 IS ADDED TO THE INDIANA CODE  
2       AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3       JANUARY 1, 2004]:

4       **Chapter 3.7. Pesticide Notification Registry**

5       **Sec. 1. (a) This chapter applies to the following:**

6       **(1) An applicator or a unit of state or local government that**  
7       **applies:**

8       **(A) a pesticide or fertilizer outdoors; or**

9       **(B) a pesticide:**

10       **(i) indoors at the residence of a person registered under**  
11       **this chapter; or**

12       **(ii) anywhere inside a multifamily dwelling in which a**  
13       **person registered under this chapter resides.**

14       **(2) A person that:**

15       **(A) owns or occupies real property; and**

16       **(B) applies a pesticide or fertilizer on real property;**

17       **if the pesticide or fertilizer will be applied on more than three**



(3) acres of the real property.

(b) This chapter does not apply to the following:

(1) Except as provided in subsection (a)(2), a person that applies a pesticide or fertilizer on real property owned or occupied by the person.

(2) An emergency application of a pesticide to address a threat to public health if the threat originated less than forty-eight (48) hours before the emergency application occurred.

Sec. 2. As used in this chapter, "applicator" means:

(1) a person licensed under IC 15-3-3.3;

(2) a private applicator (as defined in IC 15-3-3.6-2(6));

(3) a commercial applicator (as defined in IC 15-3-3.6-2(7));  
or

(4) a person described in section 1(a)(2) of this chapter; that applies a pesticide or fertilizer through spraying, fogging, ground application, or aerial application.

Sec. 3. As used in this chapter, "pesticide" has the meaning set forth in IC 15-3-3.6-2(23).

Sec. 4. (a) The state chemist shall establish a pesticide notification registry that contains information provided by persons:

(1) who register under this chapter; and

(2) whose health requires advance notification of pesticide and fertilizer applications that will occur in or near the persons' residences.

(b) The pesticide notification registry must include the following:

(1) The:

(A) names;

(B) residential addresses;

(C) telephone numbers;

(D) facsimile (fax) machine numbers; and

(E) electronic mail addresses;

provided by persons under subsection (c)(1).

(2) The addresses of real property adjacent to or in close proximity to the real property on which the persons reside provided by persons under subsection (c)(3) and (c)(4).

(c) To be included on the pesticide notification registry established in subsection (a), a person must do the following before March 1 of each year:

(1) Submit:



- 1 (A) the person's name;  
 2 (B) the address of the real property on which the person  
 3 resides; and  
 4 (C) any other contact information described in subsection  
 5 (b)(1) that the person wishes to provide;  
 6 to the state chemist on a form provided by the state chemist.  
 7 (2) Submit a physician certification that concerns the person's  
 8 medical condition or ailment that specifies the reason for the  
 9 person to be placed on the notification registry to the state  
 10 chemist on a form provided by the state chemist.  
 11 (3) Submit the addresses of real property adjacent to the real  
 12 property on which the person resides:  
 13 (A) that:  
 14 (i) share a common boundary line or corner with; or  
 15 (ii) are directly across a residential road, a stream, or  
 16 other right-of-way from;  
 17 the real property on which the person resides; and  
 18 (B) on which a pesticide or fertilizer may be applied;  
 19 to the state chemist on a form provided by the state chemist.  
 20 (4) If it is recommended and substantiated by a physician,  
 21 submit the addresses of any other real property:  
 22 (A) that is not real property adjacent to real property on  
 23 which a person registered under this chapter resides as  
 24 described under subdivision (3);  
 25 (B) that is otherwise in close proximity to real property on  
 26 which the person resides; and  
 27 (C) on which a pesticide or fertilizer may be applied;  
 28 to the state chemist on a form provided by the state chemist.  
 29 (5) Pay the state chemist a fee of twenty dollars (\$20).  
 30 (d) A person who registers under this chapter is responsible for  
 31 notifying the state chemist of any change in the information the  
 32 person submits under this section.  
 33 **Sec. 5. (a) The state chemist shall provide all applicators with a**  
 34 **current copy of the pesticide notification registry before April 1**  
 35 **and September 1 of each year. The registry must contain the**  
 36 **following:**  
 37 (1) The names and residential addresses of persons who have  
 38 registered during the year.  
 39 (2) Any other contact information described in section 4(b)(1)  
 40 of this chapter that the persons have provided.  
 41 (3) The addresses of real property adjacent to and in close  
 42 proximity to real property on which persons who have

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registered during the year reside as provided by the persons under section 4(c)(3) and 4(c)(4) of this chapter.

(b) If:

- (1) a person is required to provide notice under this chapter before the person applies a pesticide or fertilizer; and
- (2) the state chemist is not required to provide the person with a current copy of the pesticide notification registry under subsection (a);

the person must obtain a current copy of the registry from the state chemist and provide any notice required under this chapter before the person may apply a pesticide or fertilizer.

Sec. 6. (a) Before applying a pesticide or fertilizer, an applicator or a unit of state or local government must notify the following persons:

- (1) A person listed on the pesticide notification registry at least twenty-four (24) hours before:

- (A) the pesticide application occurs indoors at the person's residence; or

- (B) the pesticide or fertilizer application occurs on the real property on which the person resides.

- (2) Each person listed on the pesticide notification registry who resides on real property that is adjacent to or in close proximity to real property:

- (A) described in section 4(c)(3) and 4(c)(4) of this chapter; and

- (B) on which a pesticide or fertilizer will be applied outside through spraying, fogging, or a ground application; at least twenty-four (24) hours before the pesticide or fertilizer application occurs.

- (3) Each person listed on the pesticide notification registry who resides in a multifamily dwelling if a pesticide will be applied anywhere inside the multifamily dwelling at least twenty-four (24) hours before the pesticide or fertilizer application occurs.

(b) An applicator or a unit of state or local government may notify a person under this section by using any of the contact information the person provides under section 4(c)(1) of this chapter.

Sec. 7. The state chemist shall adopt rules under IC 4-22-2 to implement this chapter.

Sec. 8. This chapter may not be construed to impose any duties, liabilities, or obligations on an applicator, a unit of state or local

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government, or the state chemist other than those described in this chapter.

**Sec. 9. A person who violates this chapter commits a Class C infraction.**

SECTION 2. IC 15-3-3.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 3.8. Public Pesticide Notification Program**

**Sec. 1. This chapter does not apply to the following:**

- (1) A spot application of a pesticide.
- (2) An emergency application of a pesticide to address a threat to public health if the threat originated less than forty-eight (48) hours before the emergency application occurred.

**Sec. 2. As used in this chapter, "pesticide" has the meaning set forth in IC 15-3-3.6-2(23).**

**Sec. 3. (a) Before a pesticide is applied on real property owned or occupied by the following persons, the persons must display two (2) signs as described in section 5 of this chapter in conspicuous public view on the real property:**

- (1) A public library.
- (2) A university library.
- (3) A university dormitory.
- (4) A public park.
- (5) A recreational area frequented by children.
- (6) A public playground.
- (7) A public swimming pool.

**(b) Before a pesticide is applied on real property owned or occupied by a public school, private school, preschool, day care center, or day care home, the public school, private school, preschool, day care center, or day care home must do one (1) of the following:**

- (1) Provide all the parents or guardians of children that attend or use the public school, private school, preschool, day care center, or day care home with the following information at least twenty-four (24) hours before the pesticide will be applied:
  - (A) The date the pesticide will be applied.
  - (B) The locations where the pesticide will be applied.
  - (C) The names and types of pesticides that will be applied.
- (2) Establish a program to provide the information described in subdivision (1) at least twenty-four (24) hours before the

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pesticide will be applied only to those parents or guardians of children that attend or use the public school, private school, preschool, day care center, or day care home who wish to receive the information. To receive information under this subdivision, a parent or guardian must submit a written request:

(A) to the public school, private school, preschool, day care center, or day care home; and

(B) that specifically states the parent or guardian wishes to receive the information.

**Sec. 4.** Before a unit of state or local government may apply a pesticide outdoors, the unit must do the following:

(1) Post signs described in section 5 of this chapter in conspicuous public view as follows:

(A) If the pesticide will be applied through spraying or fogging, signs must be posted:

(i) in the application area; and

(ii) within two (2) miles of the boundary of the application area.

(B) If the pesticide will be applied through an aerial application, signs must be posted:

(i) in the application area; and

(ii) within three (3) miles of the boundary of the application area.

(2) Notify the appropriate news media of the pesticide application at least twenty-four (24) hours before the pesticide will be applied.

**Sec. 5.** A sign required to be posted under sections 3(a) and 4 of this chapter must meet the following requirements:

(1) The sign must:

(A) measure at least nine (9) inches wide and twelve (12) inches high; and

(B) be printed in at least 24 point type with contrasting background and lettering.

(2) The sign must contain the following information:

(A) The date the pesticide will be applied.

(B) The locations where the pesticide will be applied.

(C) The names and types of pesticides that will be applied.

(3) The sign must contain the following notice:

"Notice: Pesticides may be harmful to the health of infants, young children, pets, individuals with compromised immune systems, pregnant women, asthmatics, allergic

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- 1 persons, and the elderly.".
- 2 (4) If a sign is posted outdoors, the sign must be made of rigid,
- 3 durable, and weatherproof material.
- 4 (5) The sign must be posted for at least:
- 5 (A) twenty-four (24) hours before a pesticide will be
- 6 applied; and
- 7 (B) seventy-two (72) hours after a pesticide has been
- 8 applied.
- 9 Sec. 6. A person who violates this chapter commits a Class C
- 10 infraction.
- 11 SECTION 3. [EFFECTIVE UPON PASSAGE] (a) The state
- 12 chemist shall adopt rules under IC 4-22-2 to implement
- 13 IC 15-3-3.7, as added by this act, before January 1, 2004.
- 14 (b) This SECTION expires January 2, 2004.
- 15 SECTION 4. An emergency is declared for this act.

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